

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE:

B-180221

DATE: FEB 3 1976

MATTER OF:

Perryville, Maryland - Sale of surplus water and  
use of VA sewage system

DIGEST:

1. Perryville, Maryland, recreational park may be permitted to discharge sewage into Veterans Administration (VA) sewage system if VA determines administratively that arrangement is in interest of Government, and agreement constitutes only revocable license for limited use.
2. VA hospital which has water filtration plant currently running at half its rated capacity may sell water to town of Perryville, Maryland recreational park if VA administratively determines plant in ordinary course of business produces excess water and sale is in Government's interest.

The Veterans Administration (VA) has requested our opinion as to whether its VA Hospital in Perry Point, Maryland, may sell to the town of Perryville, Maryland, approximately 10,000 gallons of fresh water per day, which are excess to its needs, and may offer the use of sewer lines to discharge approximately 2,500 gallons of sewage per day. The VA advises us that on November 14, 1972, the Department of the Interior deeded to the town of Perryville, Maryland, 44 acres of surplus land adjacent to the Perry Point, Maryland, VA Hospital. The land is to be used as a recreational area for area residents and hospital patients. There are, however, no utilities available on the site, although a rest room has been built on the site, which the town hopes can be made operational through a hook-up with the VA Hospital water and sewage system. The hospital is located between the park and the town, and the park is almost one mile from the town limits. The hospital grounds cover all of the access routes between the park and the town, making it both difficult and expensive for the town to develop its own sewer and water system. The town proposes to install a meter on the water and sewage lines to measure the amount used by park visitors and to reimburse the VA for such usage.

The VA Administrator states:

"\* \* \* We see no objection to the matter of discharge, since the hospital sewage system discharges into the town system, and the hospital system has adequate capacity; discharge would be in the nature of an easement across the hospital property. With

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respect to water capacity, the hospital has a filtration plant which utilizes river water. This plant is presently running at about half of its rated capacity (capacity 400-500,000 gallons daily). The cost of processing water is around 28 cents per thousand gallons. The addition of processing 10,000 gallons per day would increase the costs of production by about 1 or 2 cents per thousand gallons."

We agree that the town may be permitted to discharge sewage from the park into the hospital sewage system. Such discharge would constitute a limited use of Government property for moving park sewage across the hospital property, since the hospital system, under agreement with the town, presently discharges into the town system. We see no reason to prohibit such use of the Government property in question provided it does not injure the property, if the VA determines administratively that such use would be in the interest of the Government, and the agreement or contract therefor is so drawn as to constitute only a revocable license or permit for such limited use of the property. See 22 Comp. Gen. 563 (1942); 44 id. 824 (1965); and decisions cited therein.

The sale of water from the hospital filtration plant would generally be contrary to the opinion expressed in several of our earlier cases that appropriated funds may not be used to manufacture products or materials for or otherwise supply services to private or non-Federal parties, in the absence of specific statutory authorities. 15 Comp. Dec. 178; B-69238, July 13, 1948. At 34 Comp. Gen. 599 (1955), we discussed the question whether the Bureau of Reclamation might execute a contract for the construction of a sewage system in excess of the capacity required by the Government to be used jointly by a Reclamation project camp and the general public. We held there that, even though the cost of the larger sewage system would be about the same as a smaller system built only for the use of the Government, in the absence of specific statutory authority the Bureau of Reclamation could not expend funds to construct the larger system.

In 28 Comp. Gen. 38 (1948), however, the question was whether the Bureau of Mines could sell excess electric energy to a private activity. The Bureau of Mines operated a steam generating plant which was owned by the Government and which had the capacity to produce electric energy in excess of the Bureau's needs. After stating the general rule, we said:

"\* \* \* However, it has long been held that, where a Government agency in the course of its operations produces electric current in excess of its needs, disposition of the surplus by sale to a non-Government activity is not legally objectionable. 5 Comp. Gen. 389; 11 id. 144. Therefore, if it be administratively determined to be in the interest of the Government to operate the generating plant involved at its capacity, no objection will be interposed to the disposition of the excess electric power by sale to the Northeast Missouri Power Coop in the manner contemplated by the terms of the proposed agreement.

Also, in A-34549, December 19, 1930, involving the sale of steam by the Capitol power plant to the Pennsylvania Railroad, we stated:

"\* \* \* A Government service may not, ordinarily, make use of appropriated funds to manufacture for or otherwise supply services to a non-Government activity. 15 Comp. Dec. 178. However, where a Government service necessarily produces in the ordinary course of its business, a surplus of any particular commodity, such surplus may be sold or otherwise disposed of. 5 Comp. Gen. 389. \* \* \*

There appears to be no reason why the exception for sales of surplus services or commodities should not apply as well to the sale of excess water.

Hence, if the VA determines that in the ordinary course of its business the hospital's water filtration plant produces an excess of water, and that the sale of such excess water to the town of Perryville for use in the park is in the Government's interest, there is no legal objection to such sale.

R.F. KELLER

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of the United States